

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

LANE A. & SHELLY M. RAMMELL)	DOCKET NO.: PT-1998-26
)	
Appellants,)	
)	
-vs-)	
)	
THE DEPARTMENT OF REVENUE OF)	FINDINGS OF FACT,
THE STATE OF MONTANA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondent.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal was heard on April 20, 1999, in the City of Great Falls, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law.

The taxpayers, Lane and Shelly Rammell, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by Appraiser Marlyann Lawson, presented testimony in opposition to the appeal. Testimony was presented and exhibits were received. The Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters

presented to it by all parties, finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of this matter, the hearing, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The property subject of this appeal is described as follows:

Lot 143, Fort Shaw, County of Cascade, State of Montana and improvements located thereon. (Assessor Code - 4511550).

3. For the 1998 tax year, the DOR appraised the subject property at a value of \$11,771 for the land and \$89,600 for the improvements.

4. The taxpayer appealed to the Cascade County Tax Appeal Board on September 18, 1998 requesting a reduction in value to \$7,587 for the land and \$75,000 for the improvements, stating:

I believe the appraised value does not accurately (sic) represents (sic) the acquisition (sic) cost of market value of the area.

5. In its October 8, 1998 decision, the county board upheld the Department of Revenue's values for the land and adjusted the value for the improvements, stating:

After hearing testimony and reviewing exhibits, the

Board feels an additional 5% depreciation should be allowed because of the existing conditions resulting in a new building value of \$85,120.00 with the land remaining at \$11,771.00.

6. The taxpayer then appealed that decision to this Board on October 28, 1998, stating:

The appraised value does not represent the market value for this area or the loan value of the property or the acquisition cost. If I was to sell today I could not get my money back!!!

7. The values before this Board are the values determined by the Cascade County Tax Appeal Board.

8. The subject structure is a manufactured home.

TAXPAYER'S CONTENTIONS

Taxpayers' Exhibit 7 is a "Comparative Market Analysis" prepared by Hy Rushton of Russell Country Realty on September 30, 1998. In summary, this exhibit illustrates the following:

	<u>Subject</u>	<u>Comp #1</u>	<u>Comp #2</u>	<u>Comp #3</u>
Listed Price		\$77,000	\$89,900	\$95,900
Sales Price		\$77,000	\$83,500	\$95,000
Adjustments		(\$ 3,870)	(\$12,360)	(\$18,860)
Adj. Sale Price	\$73,470*	\$73,130	\$71,140	\$76,140

* Average of adj. sale price.

The taxpayer stated the town of Fort Shaw does not have city water or sewer, paved streets and has no commercial services other than a post office and an auto repair facility.

Taxpayers' Exhibit 8 is a copy of the "Sale Agreement" for the subject land. The taxpayers' paid \$5,000

for 4.8 acres on July 28, 1997.

Taxpayers' Exhibit 9 is the purchase agreement for the subject structure. Summarized, this exhibit illustrates the following:

Buyer	Lane & Shelly Rammel
Seller:	The Home Place
Date of Sale	August 1, 1997
Sale Price	\$75,000
Make & Model	Nashua Triple 702
Year	1997
Bedrooms	3
Floor Size	60' X 40'

Optional Equipment, Labor and Accessories:

Dealer to deliver and set up on customer site in Ft. Shaw.

Dealer responsible for water and sewer hook up to existing lines.

Buyer responsible for gas and electric hook up.

Transport axles and tires are not included in this sale. All axles and tires to be removed from home upon delivery and to be retained by dealer.

Carpet: Customer is providing & installation. Dealer will leave carpet pad with home.

Customer is responsible for all interior finish work & finish warrentee (sic). Dealer will provide wood trim & door casing for interior finish.

Taxpayers' Exhibit 10 illustrates the year-end sale price for this home at \$78,500.

The subject property has a water well and septic system that was installed at a cost of \$2,587.

The subject property is located approximately 28 miles from Great Falls.

The subject structure was a display model at the fairgrounds. The original carpet showed the results of visitation by the fair-going public. Therefore, the taxpayers installed new carpet at an estimated cost of \$1,300 labor and

materials. They also repaired the interior wall-seams.

DOR'S CONTENTIONS

DOR's Exhibit A is the property record card for the subject. Summarized, this exhibit illustrates the following:

Land Data

Primary Site	1 acre	\$9,400 per acre	\$ 9,400
Residual	3.8 acres	\$ 624 per acre	\$ 2,371
	Total Land Value		\$11,771

Improvement Data

Floor area	1,898 square feet
Bedrooms	3
Bathrooms	2
Year Built	1997
Effective Age	1997
Physical Condition	6 - Excellent
Grade	5 minus - Less than Average
Condition/Desirability/Utility (CDU)	Average

Dwelling Computations

Replacement Cost New (RCN)		\$ 76,980
Percent Good	X	97%
Economic Condition Factor	X	120%
Replacement Cost New Less Deprec.		\$ 89,600
Land Value	+	\$ 11,771
Total Market Value		\$101,371

The overall physical condition of the structure is excellent but the location in Fort Shaw is not as desirable; therefore, the CDU for this property is determined to be average.

The following eight sales were presented to support the DOR's established land value:

Location	Sale Date	Sale Price	Size	Imp
Fort Shaw	10/30/96	\$ 8,300*	.33 acres	\$6,700
Simms	10/30/92	\$16,300*	1.5 acres	\$8,700
Simms	4/10/94	\$10,000	3.499 acres	
Simms	6/28/95	\$ 2,250	.096 acres	
Simms	6/28/95	\$ 2,250	.096 acres	
Simms	9/1/95	\$ 5,000	.689 acres	
Simms	6/24/96	\$ 5,000	.52 acres	
Simms	11/8/96	\$16,000	2.237 acres	

* represents residual land value

Ms. Lawson testified that the land valuation for this area was not generated from the Computer Assisted Land Pricing (CALP). The sales were analyzed and it was her opinion as the appraiser for this area that the land be valued at \$9,400 for the first acre and \$624 for each residual acre. Ms. Lawson testified that these values are being applied to the towns of Simms, Sun River and Fort Shaw.

Ms. Lawson testified that the sales comparison approach was not used to value the subject because the property is not built on a permanent foundation. The subject property's foundation is block construction; therefore, the dollar adjustments made by the Computer Assisted Mass Appraisal System (CAMAS) were too large to appropriately consider this method of appraisal. Since the sales comparison approach was not used, the DOR valued the property based on the cost approach. Ms. Lawson testified that the final step in valuing property from the cost approach is the application of an economic condition factor (ECF). An ECF of 120% has been applied to this property.

Ms. Lawson stated, *"...when we value properties that are by cost the final step in doing the cost approach to ensure that all of our estimated values are consistent with the market, we put on what is called an economic condition factor. It's important because the cost approach separates, separately estimates land*

and building values and uses replacement cost, which only reflects the supply side of the market. Market adjustment factors are often required to adjust values obtained from cost approach to the market value, and that is the definition out of the IAAO property assessment book...". DOR Exhibit B is the calculation for the 120% ECF for residential property. This ECF factor is applied to properties in rural areas.

BOARD'S DISCUSSION

The taxpayers purchased the subject lot for \$5,000 on July 28, 1997 as stated on the purchase agreement. The taxpayer indicated he installed septic and well systems at a cost of \$2,587 therefore, the total cost was \$7,587. ARM 42.18.109, Residential Reappraisal Plan (6) *Residential lots and tracts are valued through the use of computer assisted land pricing (CALP) models. Homogeneous areas within each county are geographically defined as neighborhoods. The CALP models will reflect January 1, 1996, land market values.* (emphasis added) This sale did occur outside the time frame during which the DOR was analyzing land sales for the current appraisal cycle, but there is nothing in the record to indicate this transaction was not arms-length. It is also noted that three of the DOR's land sales occurred after January 1, 1996. An appraiser's opinion of value should come from the market but the Board never did obtain a clear

understanding as to how Ms. Lawson determined the first acre value of \$9,400 and a residual per acre value of \$624. An analysis of the DOR's sales and the subject transaction on a price per acre and per square foot unit of comparison illustrates the following:

Location	Sale Date	Sale Price	Size(ac)	\$/acre	Size(sf)	\$/sf	Imp
Simms	6/28/95	\$ 2,250	.096	\$23,438	4,182	\$.54	NA
Simms	6/28/95	\$ 2,250	.096	\$23,438	4,182	\$.54	NA
Ft. Shaw	10/30/96	\$ 8,300	.33	\$25,152	14,375	\$.58	\$6,700
Simms	6/24/96	\$ 5,000	.52	\$ 9,615	22,651	\$.22	NA
Simms	9/1/95	\$ 5,000	.689	\$ 7,257	30,013	\$.17	NA
Simms	10/30/92	\$16,300	1.5	\$10,867	65,340	\$.25	\$8,700
Simms	11/8/96	\$16,000	2.237	\$ 7,152	97,144	\$.16	NA
Simms	4/10/94	\$10,000	3.499	\$ 2,858	152,416	\$.07	NA
Subject	7/28/97	\$ 7,587	4.8	\$ 1,581	209,088	\$.04	NA

DOR	NA	Mkt Value	Size(ac)	\$/acre	Size(sf)	\$/sf	Imp
Subject	NA	\$11,771	4.8	\$2,452	209,088	\$.06	NA

The DOR questioned taxpayers' exhibit 7, Comparative Market Analysis, based on the use of the adjusted sales prices versus the actual selling prices. This method of adjusting the actual sales price of the comparable to establish the value of the property being valued is a similar method used by the DOR in the Computer Assisted Mass Appraisal System (CAMAS). The DOR's "Montana Appraisal Manual" defines the sales comparison approach as, *"One of the three traditional approaches to value by which an indication of the value of a property is arrived at by compiling data on recently sold properties which are comparable to the subject property and adjusting their selling prices to account for variations in time, location, and property characteristics between the comparable and the subject*

property."

The author of Exhibit 7 was not present to answer questions with respect to the dollar adjustments but the DOR did review these properties prior to this hearing and Ms. Lawson did express concerns as to the true comparability. The exhibit also stated: *"This is not an appraisal. It is a market analysis of determining a sale price on a property at current market conditions."* Comparable #1 sold for \$77,000, adjusted downward 5% to \$73,130. Comparable #2 sold for \$89,900, adjusted downward 14.8% to \$71,140. Comparable #3 sold for \$95,000, adjusted downward 19.9% to \$76,140. The value indication for the subject from this exhibit is \$73,470 and was based on the average of the adjusted sales prices of the comparable properties.

The taxpayers purchased the structure for \$75,000 (exhibit #9). There was nothing presented to suggest that this transaction was not "arm's-length" in nature. Mr. Rammell testified they did perform some work themselves on the property, i.e. carpet and minor interior construction. The sales price should be adjusted accordingly to include the materials and labor the taxpayers provided. *15-7-102, MCA, Notice of classification and appraisal to owners - appeals. (3) ...the department may consider the actual selling price of the*

property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property...(emphasis supplied).

Ms. Lawson testified an ECF of 120% has been applied to cost approach for the subject property. The DOR's appraisal manual defines the ECF as, *"The economic condition factor is a component of depreciation or market adjustment that is usually 1.00 (100%) for the majority of properties where the cost index has been properly established and the depreciation schedules have been adequately calibrated."*

"It has a role in representing the effects of the economic climate on unique properties in a boom or bust economy. It can affect individual properties, or it can affect a whole class of properties. In a boom economy, market demand can force market prices above actual construction costs, with both new houses and used houses selling in excess of stabilized construction costs." There was nothing presented to the Board that the cost tables were not adequately calibrated or that the townsite of Fort Shaw is or had experienced a boom economy.

The following is a breakdown of the values presented before this Board:

<u>Exhibit</u>	<u>Value Indication</u>
TP - #7 Comparative Market Analysis	\$ 73,470
TP - #8 Sale Agreement	\$ 5,000
TP testimony (well & septic)	\$ 2,587
TP - #9 Sale Agreement	<u>\$75,000</u>
Total	\$ 82,567
County Tax Appeal Board Decision	\$ 96,891
DOR - A Property Record Card	\$101,371
DOR - A Property Record Card without ECF	\$ 86,442

It is the Board's opinion that the actual purchase price of the subject property with additional consideration for labor and materials provided by the taxpayers for carpet installation and wall-seam repair would suggest a value higher than \$82,567. When excluding the application of the ECF, the value indication for the property is \$86,442. It is the Board's opinion that the value for the subject property is \$11,771 for the land and \$74,671 for the improvement.

The appeal of the taxpayer is hereby granted in part and denied in part and the decision of the Cascade County Tax Appeal Board is modified.

//

//

//

//

//

//

//

//

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. **§15-2-301 MCA.**

2. **§15-8-111, MCA. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

3. **15-2-301, MCA, Appeal of county tax appeal board decisions.** (4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision.

4. **15-7-102, MCA, Notice of classification and appraisal to owners - appeals.** (3) ...the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property...

5. It is true, as a general rule, that the appraisal of the Department of Revenue is presumed to be correct and that the taxpayer must overcome this presumption. The Department of Revenue should, however, bear a certain burden of providing documented evidence to support its assessed values. (Western

Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347,
428 P.2d 3, (1967).

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Cascade County by the Assessor of that county at the 1997 tax year values of \$11,771 for the land as determined by the DOR and affirmed by the Cascade CTAB, and \$74,671 for the improvements as determined by the Board. The appeal of the taxpayers is therefore granted in part and denied in part and the decision of the Cascade County Tax Appeal Board is modified.

Dated this 25th day of May, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

GREGORY A. THORNQUIST, Chairman

(S E A L)

JAN BROWN, Member

JEREANN NELSON, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 25th day of May, 1999, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Lane & Shelly Rammell
170 Ford Street
Fort Shaw, Montana 59443-9421

Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, Montana 59620

Appraisal Office
Cascade County
300 Central Avenue
Suite 520
Great Falls, Montana 59401

Nick Lazanas
Cascade County Tax Appeal Board
Courthouse Annex
Great Falls, Montana 59401

DONNA EUBANK
Paralegal